

### **REMARKS**

Applicants, by the amendments presented above, have made a concerted effort to present claims which more clearly define over the prior art of record, and thus to place this case in condition for allowance. Currently, claims 1-13 and 20-31 are pending. Claim 31 is newly-presented.

#### ***Allowable Subject Matter***

Applicants acknowledge with appreciation that the Examiner indicated that claims 11 and 12/11 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Interview***

Applicants thank the Examiner for the courtesy of the interview which was conducted on April 15, 2004. During the interview, Applicants suggested claim language for the independent claims, however, no agreement as to allowable subject matter was reached. In addition, the Examiner explained his position on the additional elements in claims 26-30 which were not specifically addressed in the Office Action. With regard to a “rigid” upper cover as defined in independent claim 26, and “rounded” upper cover as defined in independent claim 27, the Examiner advised that Beld discloses a “rigid, rounded hood” as indicated on page 3 of the Office Action in relation to claims 20-25. With regard to the “one piece” upper cover as defined in independent claim 28, the Examiner stated that Beld is one-piece and that is apparent from looking at the reference. With regard to a heater to provide “an even temperature distribution” as defined in independent claim 29, the Examiner stated that Beld discloses a heater that is disposed across the top to inherently produce an even

temperature distribution. With regard to a heater “non-uniformly distributed over said cover” as defined in independent claim 30, the Examiner stated that this is a design choice since uniform and non-uniform heaters are known.

### ***Claim Rejections - 35 U.S.C. §103***

Claims 20-25 were rejected under 35 U.S.C. §103 as being unpatentable over United States Patent No. 5,649,896 to Barsky in view of United States Patent No. 5,817,003 to Moll et al. and further in view of United States Patent No. 3,858,570 to Beld. Claims 1-10, 12/10, 13 and 29 were rejected under 35 U.S.C. §103 as being unpatentable over Barsky in view of Moll et al. and further in view of United States Patent No. 5,817,002 to Donnelly et al. Claims 26-28 and 30 were rejected under 35 U.S.C. §103 as being unpatentable over Barsky in view of Moll et al. and further in view of Beld and Donnelly et al. Reconsideration and withdrawal of the rejections in view of the amendments and remarks made herein is requested.

Claims 2-29 have been amended to be dependent upon independent claim 1. Amended claim 1 specifies “at least one radiant heater between the infant and said cover”. In accordance with the Examiner’s request during the interview, Applicants provide a copy of claim 1 which lists the corresponding elements:

1. (Currently Amended) An apparatus (100) for heating an infant comprising:  
a surface (130) for supporting ~~said~~ the infant,  
an upper cover (120) configured to extend over said surface (130) and  
including a substantial portion which may be configured to at least a substantially  
visually opaque state or a substantially visually transparent state,

at least one radiant heater (202) between the infant and ~~integrated with,~~  
~~supported by, connected to or otherwise in immediate proximity to~~ said cover (120),  
and

a controller or processor (212) configured to energise said at least one radiant  
heater (202) such that in use the skin temperature of ~~said~~ the infant is regulated  
substantially within a predetermined range whilst enclosed by said cover (120) in said  
visibly opaque state.

Applicants submit that the prior art does not disclose “at least one radiant heater  
between the infant and said cover”, in combination with the other elements of the claim.  
Therefore, Applicant submits that amended claim 1 is allowable. Reconsideration and  
allowance is requested.

Claims 2-19 are dependent upon amended claim 1 which Applicant submit is  
allowable. Therefore, Applicant’s submit that claims 2-19 are allowable. Reconsideration  
and allowance is requested.

### ***Newly-Presented Claim 31***

Claim 31 is newly-presented and specifies (reference numerals for the Examiner’s  
convenience):

31. (New) An apparatus (100) for heating an infant comprising:
- a surface (130) for supporting the infant,
  - an upper cover (120) configured to extend over said surface (130) and  
including a substantial portion which may be configured to at least a substantially  
visually opaque state or a substantially visually transparent state,

at least one radiant heater (202) for heating the infant from above, said at least one radiant heater (202) being within said cover (120), and

a controller or processor (212) configured to energise said at least one radiant heater (202) such that in use the skin temperature of said infant is regulated substantially within a predetermined range whilst enclosed by said cover (120) in said visibly opaque state.

Therefore, claim 31 species “at least one radiant heater for heating the infant from above, said at least one radiant heater being within said cover”. Applicants submit that the prior art does not disclose this element in combination with the other elements of the claim. Therefore, Applicant submits that claim 31 is allowable. Consideration and allowance is requested.

### ***The Specification and Drawings***

The Summary of the Invention has been amended to correspond to the claims.

The specification and Figures 5 and 6 of the drawings (addition of reference numeral 132 and deletion of reference numeral 415) have been amended to correspond to the amendments made in the divisional patent application Serial No. 10/287,090, now United State Patent No. 6,673,007.

Entry of same is requested.

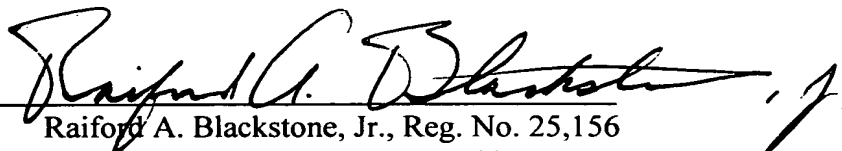
In view of the above Amendments and Remarks, Applicants respectfully submit that the claims of the application are allowable over the rejections of the Examiner. Should the Examiner have any questions regarding this Amendment, the Examiner is invited to contact one of the undersigned attorneys at (312) 704-1890.

Respectfully submitted,

Dated:

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